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COMMITTEE AGAINST TORTURE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

First supplementary reports due in 1992

Addendum

SWEDEN*

[30 September 1992]

Introduction

1. The Swedish Government submitted its initial report in June 1988 (CAT/C/5/Add.1) regarding the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Part I of the initial report contained general information on, inter alia, relevant international instruments ratified by Sweden. In addition to the instruments mentioned in that report, it should be noted that Sweden on 11 May 1990 ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty. In this context, reference should also be made to the so-called "core document" on Sweden (HRI/CORE/1/Add.4).

* For the initial report of Sweden, see CAT/C/5/Add.1; for its consideration, see CAT/C/SR.10 and 11 and Official Records of the General Assembly, forty-fourth session, Supplement No. 46 (A/44/46), paras. 39-75.

2. It should also be mentioned that the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited Sweden on 5 to 14 May 1991. The information gathered by the CPT's delegation during its visit showed that there were no allegations that persons deprived of their liberty had been subjected to ill-treatment amounting to torture within any of the places of detention visited, nor was any other evidence of torture found.

I. INFORMATION ON NEW MEASURES AND NEW DEVELOPMENTS RELATING TO THE IMPLEMENTATION OF THE CONVENTION

3. The information supplied in Sweden's initial report still applies with reference to articles 2, 5, 6, 7, 8, 9, 11, 12, 13, 14 and 15 of the Convention.

Article 3

4. In the introduction to the initial report (para. 42) before the Committee against Torture (CAT/C/SR.10, para. 6) revisions were foreseen in the Swedish Alien Act. A new Aliens Act came into force on 1 July 1989. The fundamental principles in the Swedish refugee and immigrant policy are, however, the same.

5. The Act stipulates that a refugee shall not without extraordinary reasons be refused asylum in Sweden, should he need it. Chapter 3, section 1 (the term asylum) reads as follows:

> "The term asylum as used in this Act refers to a residence permit awarded to an alien because (1) he is a refugee, (2) he is a war-resister, or (3) without being a refugee, he is unwilling to return to his country of origin on account of the political situation there and is able to plead very strong grounds in support of this."

Section 2 (the term refugee) reads as follows:

> "The term refugee as used in this Act refers to an alien who is outside the country of his nationality owing to the well-founded fear of being persecuted for reasons of race, nationality, membership of a particular social group, or religious or political opinion, and who is unable or, owing to such fear, is unwilling to avail himself of the protection of that country."

Section 3 (the term war-resister) reads as follows:

> "The term war-resister as used in this Act refers to an alien who has deserted of war or fled from his country of origin or needs to remain in Sweden in order to escape imminent war service."

Section 4 (the right to asylum) reads as follows:

> "An alien as referred to in Section 1 is entitled to asylum. Asylum may, however, be refused if
>
> 1. in view of what is known concerning the alien's previous activities, or out of consideration for national security, there are exceptional grounds for not granting asylum,
>
> 2. there are special grounds for not granting asylum in the case of an alien coming under Section 1 (2) or (3),
>
> 3. the alien has entered Sweden from Denmark, Finland, Iceland or Norway and can be returned to any of these countries in accordance with an agreement between Sweden and that country, unless it is obvious that he will not be granted a residence permit there,
>
> 4. the alien has otherwise, before coming to Sweden, stayed in a country other than his country of origin and, if returned there, will be protected from persecution or, as the case may be, from being sent to a theatre of war or to his country of origin and also from being sent on to another country where he does not have corresponding protection or
>
> 5. the alien has special links with another country and is protected there in the manner referred in paragraph 4.
>
> The Government may prescribe exceptions to subsection two, paragraph 4, in cases where the alien's links with Sweden are of such a kind that he should not be denied the opportunity of having his asylum application examined here."

6. The provisions in the old Aliens Act of 1980 concerning the enforcement of expulsion orders are substantially the same in the new Act. However, because Sweden has ratified the Convention against Torture, the enforcement provisions now include a prohibition against sending an alien to a country where he runs the risk of being subjected to torture. Chapter 8, section 1, of the Act reads as follows:

> "An alien refused entry or expelled may never be conveyed to a country where there is firm reason to believe that he would be in danger of suffering capital or corporal punishment or of being subjected to torture, nor to a country where he is not protected from being sent on to a country where he would be in such danger."

(See also the comments below regarding article 16).

Article 4

7. In the introduction to the initial report (para. 41) before the Committee against Torture information was presented (CAT/C/SR.10, para. 7) about a proposal regarding the offence "misuse of authority" whereby an offence did not have to cause damage in order to be punishable under the Penal Code. An amendment to the Penal Code to this effect, which has a bearing on article 4

of the Convention, entered into force in October 1989. The new reading of section 1 is as follows:

> "A person who in the exercise of public authority by act or by omission wilfully or through negligence disregards the duties of his office shall be sentenced for misuse of office to pay a fine or to imprisonment for at most two years. If in view of the offender's powers of office, or in view of the nature of his office as related to his exercise of public authority in other respects, or if in view of other circumstances the offence may be regarded as petty, no sentence shall be passed.
>
> Should an offence of the foregoing paragraph have been committee wilfully and must be regarded as serious, the offender shall be sentenced for gross misuse of office to imprisonment for at least six months and at most six years. In assessing the gravity of the offence, special consideration shall be given to whether the offence occasioned substantial harm or improper benefit for an individual or for the public sector.
>
> No member of a decision-making national or municipal assembly shall be held liable under the provisions of paragraphs 1 or 2 of this Section for any action he may take in that capacity.
>
> The provisions of paragraphs 1 and 2 of this Section shall not apply if the offence is punishable under some other law or enactment."

Article 10

8. The information in the initial report (paras. 74-77) still applies.

9. With reference to the questions asked by members of the Committee (CAT/C/SR.10, para. 24) and to the answer provided (CAT/C/SR.11, para. 17), the following should be noted.

10. The Police Academy teaches students about human rights-related issues. The education programme includes the United Nations human rights instruments, the European Human Rights Conventions and the United Nations Code of Conduct for Law Enforcement Officials of 17 December 1979. Furthermore, training is performed in several other subjects with a bearing on the human rights instruments such as psychology, criminology and ethics. On a trial basis a special programme is performed in the elementary training course on the subject torture, which includes a thorough study of the Convention against Torture.

11. The National Police Board (Rikspolisstyrelsen) is elaborating a special training programme on the subject of torture with a view to training security guards, patrolmen and night watchmen.

12. The Public Prosecution Authorities (Åklagarmyndigheterna) report regularly about issues relating to human rights in general.

13. The National Prisons and Probation Administration (Kriminalvårdsstyrelsen) provides information on human rights and torture. The training of the staff also includes the European Prison Rules (adopted by the Committee of Ministers of the Council of Europe in 1987).

14. At the National Defence College (Försvarshögskolan) training is compulsory in human rights-related issues as well as in humanitarian law.

15. Sweden now has several centres with special competence for care and rehabilitation of refugees and immigrants who have been subjected to torture or have had similar traumatic experiences. The competence of the personnel, often medical and psycho-social teams, is strengthened through seminars, courses and informal networking. However, there are no systematic training programmes. A few universities and colleges have included these issues in the education of physicians, psychologist, nurses and social welfare officers. A governmental investigation on psychiatric care shall submit its proposals for strengthening the Government's support for rehabilitation of refugees and immigrants with severe mental and physical problems. That report is due during the last quarter of this year.

Article 16

16. The information provided in the initial report (para. 107) still applies since the new Aliens Act contains provisions of corresponding character. According to the present provisions (chapter 6, section 2), an alien may be detained as follows:

> "An alien aged 16 or over may be detained
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> 1. if his identity is unclear on arrival in Sweden or, when he subsequently applies for a residence permit and cannot establish the probability of his stated identity being correct and his right of entry or abode in Sweden cannot be assessed in spite of this uncertainty, or
>
> 2. this is necessary in order for an investigation of his right of remaining in Sweden to be feasible, or
>
> 3. it is probable that he will be refused entry or expelled pursuant to chapter 4, sections 1-3 or 11, or the question arises of enforcing a refusal of entry or expulsion order.
>
> Detention orders under subsection 1 (3) may only be issued if the personal circumstances of the alien or other circumstances give cause for fearing that he will conceal himself or engage in criminal activities in Sweden."

17. The time-limit for detention pursuant to chapter 6, section 4, is 48 hours. An alien may not otherwise be detained for more than two weeks, unless there are strong grounds for a longer period. If a refusal of entry or expulsion order has been made, however, an alien may be detained for up to two months, unless there are strong grounds for a longer period. (chapter 6, section 4).

18. The text regarding detention of children (chapter 6, section 3) reads as follows:

> "An alien under 16 may not be detained unless it is probable that he will be refused entry or expelled pursuant to chapter 4, sections 1-3 or 11 or the question arises of enforcing a refusal of entry or expulsion order and
>
> 1. there is an obvious risk that he will otherwise conceal himself, thereby jeopardizing an impending enforcement which ought not be delayed, or
>
> 2. there is reason to suppose that he will otherwise engage in criminal activities in Sweden.
>
> An alien under 16 may not be detained if it is sufficient for him to be kept under supervision as provided in section 5 (2).
>
> If a child under 16 would be separated from his custodian or, if there is more than one custodian, from one of them as a result of the custodian or the child being detained, this measure may only be taken if there are exceptional grounds for doing so."

The Government is at present considering a revision of the Act concerning a further limitation of the possibility of detaining a child under the age of 16. The general principle should be that a child may not be detained.

19. The information in paragraph 108 (the 1986 Act concerning Disciplinary Offences committed by Members of the Armed Forces) of the initial report still applies.

20. The Act of 1966 concerning institutional psychiatric care referred to in paragraph 113 of the initial report has been repealed. Two new Acts (a) the Act concerning Psychiatric Compulsory Care and (b) the Act concerning Forensic Psychiatric Care came into force on 1 January 1992. The major change in these Acts is a time-limit for compulsory care which is subject to judicial control. These provisions have strengthened the possibility of protecting the rights of the individual.

21. A new Act concerning protection against communicable diseases entered into force on 1 July 1989 about which the Committee was duly informed (CAT/C/SR.10, para. 7). The new Act does not differ substantially from the old legislation. The Government is at present investigating the possibility of supplementing the present legislation with the aim of protecting the patient's rights in connection with compulsory isolation under the Communicable Disease Act.

22. A new Act containing Special Provisions Relating to the Care of Young Persons came into force on 1 July 1990, when the previous Act, passed in 1980, was repealed (CAT/C/5/Add.1, paras. 117-118). The purpose of the new Act is to extend the possibility of providing care at an earlier stage, inter alia, in cases of young people who, as a result of drug abuse, criminal behaviour, etc., expose their own health or development to serious risk. The new Act

does not contain any changes for the protection of the individual's rights under the Convention against Torture.

23. A new Act concerning the Treatment of Misusers in Certain Cases came into force on 1 January 1989 when the previous Act, passed in 1981, was repealed (CAT/C/5/Add.1, para. 119). Compared with the earlier provisions, the new Act has in several respects expanded the facilities for compulsory care in connection with serious alcohol or drug abuse. Thus, it sanctions intervention at an earlier stage of abuse. In addition, the maximum duration of compulsory care under this Act has been extended to six months. The Act applies not only to abusers of alcohol and narcotics but also to abusers of volatile solvents. The necessary conditions for compulsory treatment under this Act are, inter alia, that the misuser either seriously endangers his own physical or mental health or is running an obvious risk of ruining his life.

II. ADDITIONAL INFORMATION REQUESTED BY THE COMMITTEE

24. The information requested by the Committee during its consideration of Sweden's initial report has been presented under the relevant articles of the Convention under part I of this supplementary report.

25. List of annexes: 1/

Annex 1: Aliens Act (1989:529)
Aliens Ordinance (1989:547) as amended on 1 October 1990

Annex 2: The Act on Care of Alcoholics, Drug Abusers and Abusers of Volatile Solvents (1988:870)

Annex 3: Social Services Act (1980:620)
and Care of Young Persons (1990:52)

Annex 4: The Communicable Diseases Act (1988:1472)

1/ The annexes, when received from the Government of Sweden, can be consulted in the files of the secretariat, Centre for Human Rights.